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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JUL 29 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Implementation of )  
Section 19 of )  
the Cable Television ) CS Docket No. 94-48  
Consumer Protection and )  
Competition Act of 1992 )  
 )  
Annual Assessment of the Status )  
of Competition in the Market For )  
the Delivery of Video Programming )

To: The Commission

REPLY COMMENTS OF VIACOM INTERNATIONAL INC.

Viacom International Inc. ("Viacom"), by its attorneys, hereby submits its reply comments in the above-captioned matter. As set forth below, these reply comments address only a few limited issues where factual corrections or other clarifications appear to be warranted.<sup>1</sup>

1. Program Services in Which Viacom Has an Ownership Interest. Viacom currently holds an ownership interest, either directly or indirectly through subsidiaries or affiliates, in the following program services:

- a. Showtime;
- b. The Movie Channel;
- c. FLIX;
- d. MTV: Music Television;
- e. VH-1/Video Hits One;

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<sup>1</sup> The information supplied in this pleading should not be regarded as an exhaustive effort to correct erroneous or outdated information contained in the record of this proceeding.

- f. Nickelodeon;
- g. MTV Latino;
- h. USA Network;
- i. Sci-Fi Channel;
- j. Madison Square Garden Network;
- k. Comedy Central;
- l. All News Channel;
- m. Prime Sports Northwest; and
- n. Viewer's Choice.

2. Program Services in Which Viacom No Longer Holds an Interest. Since the release of the 1990 Cable Report, Viacom has divested its interest in the following program services:

a. Turner Broadcasting System ("TBS"). Viacom has sold the 5% interest it previously held in TBS. Accordingly, Viacom has no ownership interest in CNN, Headline News, TNT, Turner Classic Movies, Cartoon Channel, or Superstation TBS.

b. Lifetime Television. Viacom has sold the 33% interest it previously held in Lifetime.

c. Pacific Sports Network. Pacific Sports Network ceased operations in 1991.

3. Potential TCI Investment in Showtime. In 1990, the FCC reported on a letter of intent which contemplated that TCI would acquire a 50% interest in Showtime Networks Inc. That acquisition was never consummated.

4. Primestar access to cable networks. The National Rural Telecommunications Cooperative claims that Primestar has access to and plans to offer Viacom programming services. In fact,

Viacom has not thus far entered into any licensing agreements with Primestar.

5. Rates Charged to TVRO Operators. In this proceeding, Consumer Satellite Systems, Inc., Programmers Clearing House, Inc., and Satellite Receivers Ltd. (collectively, "Consumer Satellite") present a chart which purports to show a comparison of rates charged by vertically-integrated programmers to cable and home satellite dish distributors.<sup>2</sup> The Commission should be advised that the numbers presented on this chart are outdated and extremely unreliable. Consumer Satellite bases its cable rate showing on Paul Kagan's Cable TV Programming Newsletter for April 30, 1993. Those figures predate the effective date of the Commission's program access rules and obviously do not reflect any actions taken by programmers since those rules became effective. Thus, it is simply improper to make any assessment as to compliance with the program access rules based on the data presented. Moreover, the Kagan newsletter does not contain even an estimate of rates for premium networks such as Viacom's Showtime and The Movie Channel. It is unclear on what source Consumer Satellite based its information for such services. In any event, at least insofar as it relates to Viacom's program services, the chart is simply inaccurate. Accordingly, Viacom submits that this data should not be relied on by the FCC or the Congress for any purpose.

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<sup>2</sup> Comments of Consumer Satellite in CS Docket No. 94-48, June 29, 1994 at App. A.

6. Future reports. Viacom respectfully submits that it would be inappropriate for the Commission to compel disclosure of reports that several parties, including Viacom, are required to submit pursuant to the Primestar consent decrees. Such forced disclosure would, in effect, unseal confidential documents submitted pursuant to the settlement of judicial proceedings that did not involve either the FCC or the laws that it administers. In the absence of a compelling need, such a requirement would discourage parties, in the future, from entering into agreements which call for the disclosure under seal of proprietary information. Moreover, in the circumstances present here, such forced disclosure is wholly unnecessary. The Commission already has gathered, or has access to, all of the data that should be needed for the compilation of its annual competition reports. In addition, to the extent that the FCC has a need for additional information in the context of a specific enforcement or investigative proceeding, it has ample authority to collect such data.<sup>3</sup> In these circumstances, the agency should be respectful of the confidentiality agreements into which private parties, and over 40 state governments, have entered in good faith.

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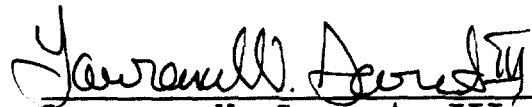
<sup>3</sup> See 47 U.S.C. §§ 548(b), 548(f)(2) (authorizing FCC to "collect such data" as necessary to investigate alleged violations of the program access provisions); 47 U.S.C. §543(g) (authorizing collection of "financial information as may be needed for the purposes of administering and enforcing" rate regulations).

CONCLUSION

Viacom trusts that the information set forth above<sup>4</sup> will be of assistance to the Commission as it completes its inquiry in the above-captioned matter.

Respectfully submitted,

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<sup>4</sup> With respect to the ability of a vertically-integrated MSO that has a large share of cable subscribers nationally (in contrast to Viacom's de minimis cable system holdings of less than 2% of all U.S. cable subscribers) to discriminate against unaffiliated programming services and in favor of affiliated programming services, Viacom refers to its action against Telecommunications, Inc. ("TCI") and other parties which is pending in the United States District Court for the Southern District of New York. Case No. 93 Civ. 6658 (LAP). That lawsuit is a matter of public record and Viacom will not repeat its allegations here. Those allegations are incorporated by reference in these Reply Comments to the extent they differ from the comments filed by any party in this proceeding, including the National Cable Television Association of which Viacom is a member. See also Viacom Comments on Petition for Reconsideration in MM Docket No. 92-264, February 14, 1994.